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A PRACTITIONER'S GUIDE TO THE MAASTRICHT TREATY

*Michael H. Abbey**
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INTRODUCTION

As the attention of the United States focused on the NAFTA debate in November of 1993, the Treaty on European Union, better known as the "Maastricht Treaty," quietly slipped into force.¹ Uniting over 350 million citizens and consumers into a single union and greatly extending the powers of the supranational European Community (EC), the Treaty is likely to have a significant impact on European commerce regardless of whether the more high-profile aspects of the Treaty — monetary union and foreign policy coordination — ever in fact come to pass.

The road to ratification of the Maastricht Treaty was long and arduous. With the recent ruling of the German Constitutional Court that the Treaty is compatible with German law,² however, the last in a long line of obstacles to the Treaty — from British intransigence to Danish petulance to French ambivalence — has been removed. Signed on February 7, 1992, the Maastricht Treaty finally came into force on November 1, 1993, substantially amending the treaties (particularly the European Economic Community Treaty, as amended by the Single European Act, or the "EC Treaty") that serve as the legal foundation of the European Community.³

Although in the United States many have followed the political roller coaster ride that characterized ratification of the Maastricht Treaty, few have undertaken a comprehensive analysis of the Treaty's provisions and impact. Given its uncertain fate, perhaps such an understanding of the Treaty was considered unnecessary. The Maastricht Treaty, however, has

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This practitioner's guide is a product of the authors' own analysis and observation. A minimal number of outside sources were consulted.

1. TREATY ON EUROPEAN UNION, *reprinted in* 31 I.L.M. 247 (1992) [hereinafter *MAASTRICHT TREATY*].

2. Cases 2 BVerfGE 2134/92 & 2 BVerfGE 2159/92, *Brunner v. European Union Treaty*, 1 C.M.L.R. 57 (1994) (F.R.G.).

3. TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY, *reprinted in* 298 U.N.T.S. 11, *amended by* Single European Act, 1987 O.J. (L 169) 1 [hereinafter *EC TREATY*].

become the law of the land, and any lawyer or company doing business in Europe should appreciate its potential significance.

As always, the impact of new legal principles in the unique inter-governmental arrangement that is the EC is largely a function of political will among the Member States. On this count, the immediate prospects for the Maastricht Treaty appear dim. The climate of political disunity and economic introversion of today's recession-weary Europe is markedly different from that of the heady days of December 1991, when the burning question was whether the EC should first "deepen" its integration or "widen" its membership.⁴ German reunification and the reawakening of its historical ties with central and eastern Europe has since 1991 called into question the strength of Germany's commitment to the EC, probably the single most important determinant of the success of "European Union." Moreover, events since December 1991 have greatly diminished prospects for the formation of a European Monetary Union, arguably the cornerstone of the Maastricht vision. Indeed, the recent breakdown of the European Monetary System⁵ has placed in jeopardy the timetable for movement toward a single European monetary policy and currency — if not the entire notion of monetary union.

History nonetheless suggests that the Maastricht Treaty will have a substantial impact on companies doing business in Europe. When the Treaty of Rome⁶ was signed almost forty years ago, few believed pan-European cooperation possible, and those who dismissed "Europe 1992" have been rudely surprised by the rash of new legislation it has created. Moreover, the substantial new authority granted to the EC Commission, European Parliament, and European Court of Justice under the Maastricht Treaty suggests a more powerful institutional momentum toward expanded influence. Perhaps most importantly, as the signatories of the Maastricht Treaty recognized and the modern era of regional trading blocks underscores, there is a compelling logic to greater European economic integration.

The following pages contain a comprehensive summary of the Maastricht Treaty, arranged (as is the Treaty itself) in the order of the articles of the existing EEC Treaty, which the new treaty amends. The summary thus serves not only as an overview for the uninitiated but also

4. See Howard LaFranchi, *EC Girds Itself for Inevitable Expansion*, CHRISTIAN SCI. MONITOR (Boston), Dec. 24, 1991, at 5.

5. See Peter Norman, *An Eery Calm as New Realities of the ERM Sink In*, FIN. TIMES (London), Aug. 31, 1993, at 17.

6. TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY, reprinted in 298 U.N.T.S. 1 (1958) [hereinafter TREATY OF ROME].

as a handy reference guide for practitioners on the impact (if any) of the Maastricht Treaty on specific EEC Treaty provisions. Included in the summary are the amendments agreed upon at the Edinburgh Summit, at which Denmark extracted the derogations it deemed necessary to win Danish ratification of the Treaty.

I. HIGHLIGHTS OF THE MAASTRICHT TREATY

Before undertaking a section by section summary of the Maastricht Treaty, this article will briefly discuss some of the highlights of the Treaty and the prospects for European Monetary Union.

A. New Powers and Procedures

The Maastricht Treaty is a particularly important milestone in the evolution of the European Community because it effects several fundamental changes in the powers and procedures of EC institutions. Most notably, the European Parliament now has substantial ability to modify, delay, or derail EC legislation in a broad range of substantive areas. The new co-decision procedure of Article 189(b) essentially grants the European Parliament veto power over legislation in such key areas as internal market legislation, the right of establishment and free circulation of workers, trans-European networks, education, health, consumer protection, and environmental action programs. It also increases the potential duration of the legislative process. As a result, the European Parliament will become a much more significant point of EC lobbying contact. The Parliament must also approve the appointment, as a body, of the EC Commission and President.

In the judicial arena, the Treaty creates a procedure for fining Member States for noncompliance with judgments of the European Court of Justice requiring fulfillment of EC treaty obligations.⁷ In addition, a new Court of First Instance will allow more expeditious handling of cases. These provisions should enhance the attractiveness of judicial challenges to enforce EC treaty obligations.

The pace and content of EC legislation will likely be affected by provisions removing important substantive areas from the constraint of unanimous EC Council consent.⁸ Of particular note, so-called "qualified majority voting" (under which it takes one small and two large Member States to block a measure) now governs enactment of most environmental

7. MAASTRICHT TREATY, *supra* note 1, Tit. II, art. 6 (E)(51), 31 I.L.M. at 292.

8. MAASTRICHT TREATY, *supra* note 1, Tit. II, Art. 6 (E)(45), (61), 31 I.L.M. at 289, 296.

legislation.⁹ Likewise, as is discussed further below, EC labor laws are subject to qualified majority voting.¹⁰ Qualified majority voting also governs public health and consumer protection legislation to a large extent.¹¹ Previously it was possible to legislate in these areas by qualified majority voting only if the measure facilitated the internal market (*i.e.*, the free movement of goods, services, labor, or capital). After 1995, the EC Council may adopt, by qualified majorities, measures governing visa requirements for third country nationals entering the EC.¹²

B. New Substantive Areas

In addition to enhancing EC legislative authority by extending the scope of qualified majority voting, the Maastricht Treaty adds new substantive areas to the EC plate. The EC now has specific authority to enact measures on trans-European transport, telecommunications, energy networks, industrial policy, promotion of European culture, and coordination of Member State aid to developing countries. The Treaty gives the EC more explicit authority to legislate in the areas of public health, education, vocational training, consumer protection, and the environment. Although legislation in any of these areas was possible under Article 100 of the EEC Treaty (unanimous consent) or, to the extent that it promoted the internal market, Article 100(a) (qualified majority voting), the placement of these substantive areas specifically within the mandate of the EC, and in some cases the alteration of the applicable voting requirements, will likely enlarge the EC role in these fields. At the very least, the EC Commission, the institution charged with initiating EC legislation, is likely to take on a more activist role.

C. Social Policy

Among the most controversial of the Maastricht Treaty provisions is the Agreement on Social Policy, a protocol adopted by all the Member States except the United Kingdom.¹³ The agreement promises a new era of EC labor law. It not only allows the EC Council to make many decisions in the area by qualified majority vote, but also removes the United Kingdom from the legislative process relating to labor law. The

9. MAASTRICHT TREATY, *supra* note 1, Tit. II, art. 6 (D)(38), 31 I.L.M. at 280.

10. MAASTRICHT TREATY, *supra* note 1, Tit. II, art. 6 (D)(33), 31 I.L.M. at 278.

11. MAASTRICHT TREATY, *supra* note 1, Tit. II, art. 6 (D)(38), 31 I.L.M. at 280.

12. MAASTRICHT TREATY, *supra* note 1, Tit. II, art. 6 (D)(23), 31 I.L.M. at 264.

13. Agreement on Social Policy Concluded Between the Member States of the EC with the Exception of the U.K., Feb. 7, 1992, 31 I.L.M. 357.

scope of the measures now subject to qualified majority voting appears quite broad: worker health and safety, working conditions, gender equality of opportunity and treatment, worker information and consultation, and integration of persons excluded from the labor market are all subject to qualified majority voting. Moreover, new areas are added to the list of decisions that can be made by unanimous vote, including social security, protection of workers who lose their jobs, labor representation, and employment conditions of non-EC nationals. The EC Council, minus the United Kingdom, is already considering under the Agreement on Social Policy the enactment of potentially far reaching legislation, including, for example, a requirement that companies based in two or more EC countries establish "worker councils" which they must then inform and consult on policies affecting labor.

D. European Union Citizenship

One of the sleeper provisions of the Maastricht Treaty may be the designation of all Member State nationals as "citizens of the European Union."¹⁴ Among the perks of this new status is the right of citizens living in a Member State of which they are not nationals to vote and stand as candidates in the local and European Parliament elections of that Member State, and the right of citizens to petition the European Parliament on matters directly affecting them.

E. Prospects for European Monetary Union

The uncertain prospects of European Monetary Union (EMU) make it difficult to do more than speculate on the impact it might have. As envisioned by the Maastricht Treaty,¹⁵ EMU would involve the creation of a central bank and a single currency, centralized control of the money supply, a strong influence on national financial and tax policies, and a wide-ranging right to intervene in the domestic affairs of Member States.

The resolution of the European Council dated December 5, 1978¹⁶ provided the political basis for this proposed revolution in European politics and finance. Article 235 of the EEC Treaty provided the legislative basis by empowering the Administrative Council of the European Council Monetary Fund to establish the European Monetary System

14. MAASTRICHT TREATY, *supra* note 1, Tit. II, art. 6 (C), 31 I.L.M. at 258.

15. MAASTRICHT TREATY, *supra* note 1, Tit. II, art. 6 (D)(25) and (B)(7), 31 I.L.M. at 258, 264.

16. *See Economic and Monetary Policy: European Monetary System*, 12 BULL. EC 30 (1978).

(EMS). As a result, the exchange rate of a Member State was not permitted to fluctuate by more than 2.25 percent (six percent in the case of Italy, Spain, Portugal, and the United Kingdom) from its reference point. This arrangement remained in place until the events of August 1993.¹⁷

The Delors Plan for Economic and Monetary Union of April 19, 1989 established the blueprint for EMU.¹⁸ The first stage of the plan, which did not require an amendment to the EC Treaty, had as its principal objective completion of the internal market and the elimination of restrictions on EC capital movement. Exceptions were made for Greece, Spain, Portugal, and Ireland. Stage II of the Delors Plan was contingent on ratification of the Maastricht Treaty by all Member States, now a reality. Stage II has as its objectives the creation of a single financial area, the entry of all Member States into the EMS, and the removal of all obstacles to the use of a private European currency unit.

In the economic field, the EC Council acting by a majority vote will set the framework for key EC economic objectives, including the size of annual budget deficits in the Member States. In the monetary field, the European System of Central Banks (ESCB) will coordinate the national monetary policies of the Member States, including establishing monetary guidelines, pooling part of the Member States' foreign exchange reserves, harmonizing reserve requirements, and narrowing fluctuation margins.

Stage III of the Delors Plan seeks to achieve irrevocably locked exchange rates, the introduction of a single currency, and the transfer to the European Community of monetary and economic competence. Stage III of the Delors Plan arguably represents the main objective of the Maastricht Treaty. Its viability has been called into serious question, however, not only by the breakdown of the EMS in August 1993, but also by the judgment of the German Constitutional Court at Karlsruhe challenging the power of the German government to complete Stage III without the full consent of the German Parliament.¹⁹

The rigid timetable for phasing in the single currency mandated by the Maastricht Treaty has attracted much criticism. Pursuant to the Treaty, the decision to form a European Monetary Union is to be made either before 1998, if the European Council decides that a majority of Member States meet the convergence criteria relating to inflation, the deficit,

17. See Norman, *supra* note 6.

18. COMMITTEE FOR THE STUDY OF ECONOMIC AND MONETARY UNION, REPORT ON ECONOMIC AND MONETARY UNION IN THE EUROPEAN COMMUNITY (1989).

19. Cases 2 BVerfGE 2134/92 & 2 BVerfGE 2159/92, *Brunner v. European Union Treaty*, 1 C.M.L.R. 57 (1994) (F.R.G.).

maintenance of national currencies within the narrow (2.25 percent) band of the Exchange Rate Mechanism (ERM) for two years, and long-term interest rates; or after January 1, 1999, when at least two Member States meet the above convergence criteria.²⁰ Unless some rapid reconstruction work on the ERM is carried out before the end of 1995, the likelihood of a majority of Member States meeting by December 1997 the requirement of two years' compliance with ERM targets is small. Does this mean that the grand objective of the Maastricht Treaty — economic, monetary and political union — is dead?

As has so often been the case in the European Community, much depends on the evolving relationship between France and Germany. Historically, few major initiatives have succeeded in the European Community without the support of these two Member States. France's Minister for Foreign Affairs maintains in public the position that the calendar for monetary union is something on which all Member States have settled and on which all Member States are agreed. Chancellor Kohl, however, simultaneously asked whether if the calendar for monetary union were to be delayed by one or two years, the basic course of events would be changed. He added disarmingly that the idea of delay was only an idea, no more than that.

Commentators feel that the Chancellor intended the apparently casual airing of this view to signal his wish that the timetable for monetary union be abandoned since the timetable clearly ignores economic reality. Such abandonment, however, would not preclude the interim formation of a "Deutschmark zone" within the European Community, consisting of Germany, Belgium, the Netherlands, Luxembourg, and Denmark. France would then be faced with the question of whether to commit its own economic and financial future to this group.

The EC is currently reviewing the prospects for rebuilding the EMS, and perhaps tightening the current fifteen percent currency fluctuation bands and reconsidering the convergence criteria. Some further indications of the French position will soon emerge. Germany has already made apparent its determination that its own economic interests take precedence over its desire to be seen as a good European. The reality of the Bundesbank's fiscal and monetary actions over the past two years reveals more than the pro-European speeches of government ministers.

As noted, the Constitutional Court has preserved the rights of the German Parliament in this matter. The issue in the last analysis will turn on whether those who so vigorously fought for the strict timetable of the

20. MAASTRICHT TREATY, *supra* note 1, Tit. II, art. 6 (D)(25), 31 I.L.M. at 264.

Maastricht Treaty will be able to pull off the conjuring trick one more time, perhaps by proposing that the narrow 2.25 percent band in the Treaty be replaced by a broader fifteen percent band and by hoping that an indulgent majority of the EC Council will by 1997 overlook the failure of major, especially southern, Member States to meet the other convergence criteria. It seems unlikely, however, that Germany will risk its own currency on a gamble of this nature. Ultimately, the German Constitutional Court and Parliament may have the final word on the fate of EMU.

II. SECTION-BY-SECTION SUMMARY OF THE MAASTRICHT TREATY

The Treaty of Rome, as amended by the Single European Act, is the founding document of the European Community.²¹ The Treaty on European Union, which came into force on November 1, 1993, added further amendments.²² The following is a summary of these amendments and their effect.

A. Common Provisions (Articles A–G)

A new section enunciates several general principles. The most significant of these are European Union and *acquis communautaire*.

1. European Union

A new "European Union" is established, founded on the Communities and supplemented by the Maastricht amendments.

2. Acquis Communautaire

The Union is to maintain in full and build on the *acquis communautaire* — the entire body of Community law, including regulations and decisions, adopted under the Treaties.

B. Principles/Citizenship (Articles 1–8e)

1. Community Objectives

The objectives of the Community now include the balanced development of economic activities, sustainable and non-inflationary growth respecting the environment, a high degree of convergence of economic

21. EC TREATY, *supra* note 3.

22. MAASTRICHT TREATY, *supra* note 1.

performance, a high level of employment and social protection, and economic and social cohesion and solidarity among the Member States.

2. Economic and Monetary Union

The following measures will implement the Economic and Monetary Union (EMU): (1) the irrevocable fixing of exchange rates leading to the introduction of a single currency (the ECU); (2) the definition and conduct of a single monetary policy and exchange rate policy aimed at maintaining price stability; and (3) the close coordination of the Member States' economic policies in accordance with free market principles.

3. Subsidiarity

In the areas that do not fall within its exclusive jurisdiction, the EC may take action only to the extent that the objectives of the proposed action cannot be sufficiently achieved by the Member States and can be better achieved by the Community.

4. European Central Bank

This section establishes the European Central Bank (ECB) and the European System of Central Banks (ESCB).

5. Citizenship of the Union

All Member State nationals are citizens of the Union. Not later than 1995, citizens living in Member States of which they are not nationals may vote and stand as candidates in the municipal elections and elections to the European Parliament of those states under the same conditions as nationals. Derogations may be provided where warranted by problems specific to a Member State. Member States must provide diplomatic protection in the territory of third countries to all citizens on the same conditions as their own nationals.

C. Free Movement of Goods (Articles 9–37)

This section is not amended.

D. Agriculture (Articles 38–47)

This section is not amended.

E. Free Movement of Workers (Articles 48–51)

This section is unchanged except for the implementation of a new

legislative procedure. Legislation in this field, not including social security measures, must be adopted under the new procedure of Article 189b. This article is discussed further in section II.

F. Right of Establishment (Articles 52–58)

This section is unchanged except for the addition of a procedure whereby most legislation in this field must be adopted under the new procedure of Article 189b.

G. Freedom to Provide Services (Articles 59–66)

This section is not amended.

H. Free Movement of Capital (Articles 67–73h)

This section embodies many of the amendments relating to the EMU. Beginning January 1, 1994, Articles 67-73 are deleted and replaced by new provisions governing the movement of capital.

1. Restrictions on Capital Movement

As of January 1, 1994, each Member State is to have adopted measures to comply with the following prohibitions: (1) restrictions on the movement of capital between Member States and between Member States and third countries are prohibited; and (2) restrictions on payments (current payments connected with the movement of capital) between Member States and between Member States and third countries are prohibited. However, restrictions on the movement of capital to or from third countries involving direct investment, establishment, the provision of financial services, and admission of securities to capital markets are permitted provided they existed under national or Community law by the end of 1993. The Council may adopt measures in these areas by qualified majority, with unanimity required for measures that constitute a step back in Community law regarding liberalization.

In addition, the prohibition on restrictions on capital movements and payments does not prejudice the right of Member States to: (a) apply tax laws that distinguish between taxpayers based on their place of residence or capital investment; (b) take all requisite measures to prevent infringements of national law and regulations, particularly in the field of taxation and the supervision of financial institutions; (c) establish procedures for the reporting of capital movements for administrative or statistical purposes; and (d) establish measures that are justified on grounds of public policy or public security. Member States which, at the end of

1993, enjoy a derogation from the EEC Treaty with regard to restrictions on the movement of capital may maintain this derogation until the end of 1995 at the latest.

2. Safeguard Measures

The Council may, by qualified majority, take safeguard measures of limited duration vis-à-vis third countries where the movement of capital to or from third countries causes or threatens to cause serious difficulties for the operation of the EMU. Such measures may only be taken in exceptional circumstances and where strictly necessary, and may not exceed six months in duration.

3. Foreign Policy Measures

The Council may, acting by qualified majority on the basis of a common position established under the provisions on common foreign and security policy, take emergency measures with regard to the movement of capital and payments which are necessary to interrupt or reduce economic relations with a third country. If the Council does not take any such measures, Member States may, for serious political reasons on grounds of urgency and after notifying the Commission and the other Member States, take measures on their own initiative. The Council retains the power to decide that the Member State concerned must amend or abolish such measures.

I. Transport (Articles 74–84)

This section is unchanged except for the adoption of transport safety measures and a new legislative procedure. The Council is authorized to adopt measures to improve transport safety. Most legislation in this field must be adopted under the former cooperation procedure now embodied in Article 189c, which is discussed in section II of this article.

J. Competition (Articles 85–90)

This section is not amended.

K. Dumping (Article 91)

This section is not amended.

L. State Aids (Articles 92–94)

The most significant change is in the area of cultural aid. Aid to promote culture and heritage conservation, where it does not affect

Community trading conditions or competition in a manner contrary to the common interest, has been added to the categories of aid which may be considered compatible with the common market.

M. Tax Provisions (Articles 95–99)

There are no significant changes to this section.

N. Approximation of Laws (Articles 100–102)

Under these articles, the Council must adopt measures that relate to the approximation of Member State laws for the development of the single internal market (as defined by the objectives of Article 8a) by the new procedure set out in Article 189b. Directives affecting the common market (but not the single internal market) remain subject to unanimous approval.

In addition, the Council is authorized to determine, by unanimous vote through 1995 and by qualified majority thereafter, the third countries whose nationals must obtain visas in order to cross the external borders of the Member States.

O. Economic and Monetary Policy (Articles 102–109m)

This section embodies most of the remaining amendments relating to the EMU. The move towards EMU is divided into three stages, with an opt-out clause for the United Kingdom in relation to the third stage. Denmark has given notification that it will not participate in the third stage.

The following is a very brief overview of a complex, technical set of provisions; a detailed discussion of the EMU is outside the scope of this article.

1. Stage 1

The first stage seeks the completion of the internal market and the removal of obstacles to financial integration. Specifically, by the end of 1993, Member States are to have removed all restrictions on the movement of capital and on payments between Member States and between Member States and third countries. Member States must also eliminate any credit facilities between the ECB or national central banks and Community institutions, central governments, or other public bodies. Member States are further required to implement multi-annual programs to ensure economic and monetary convergence (see "Stage 2" below).

2. Stage 2

The second stage seeks the establishment of the institutional structure necessary to achieve EMU. Denmark will participate fully in this second stage. A European Monetary Institute ("EMI"), directed by a President (appointed by common accord of the Member States) and the Governors of the Member States' central banks, is created to strengthen cooperation between the Member State central banks, coordinate monetary policies, and prepare for the introduction of the ECU and the operation of the ESCB in Stage 3. Member States are required to avoid "excessive" government deficits, which are specifically defined as a ratio of Gross Domestic Product.

Member States will also work toward economic and monetary "convergence," specifically defined with reference to four criteria: (1) price stability, as measured by the proximity of rates of inflation; (2) soundness of government financial positions, as measured by the absence of "excessive" government budget deficits; (3) maintenance of exchange rates within the EMS margins for two years without devaluation; and (4) durability of convergence, as measured by the proximity of long term interest rate levels. These four criteria, which are further defined in the EEC Treaty and related protocols, comprise the basic conditions for adoption of a single currency. Not later than December 31, 1996, the Council, acting by qualified majority, must determine whether a majority of the Member States meet the conditions for adoption of a single currency and whether it is appropriate to move to the third stage. If so, it will set the date for the commencement of the third stage. If the date for the third stage has not been set by the end of 1997, the third stage will begin automatically on January 1, 1999.

3. Stage 3

In the third stage, the ECB and the ESCB begin operation, and the Member States that meet the requisite conditions convert to a single currency, the ECU. The ECB and the ESCB will be governed by six-member executive boards appointed by the Member States and the Governors of the national central banks. Their main functions will be to define and implement the monetary policy of the Community, conduct foreign exchange operations, hold and manage the official foreign reserves of the Member States, and promote the smooth operation of payment systems. The ECB will have the exclusive right to authorize the issue of bank notes within the Community. The ECB and the ESCB are to be free from any Community institution or Member State influence. At

the starting date of the third stage, the Council shall, acting by a unanimity of the Member States which have fulfilled the requisite conditions, adopt the conversion rates at which the ECU will be substituted for their national currencies. Upon this conversion, the ECU will become a currency in its own right. Member States not meeting the single currency conditions at the starting date may convert to the ECU, under similar procedures, upon meeting those conditions.

Denmark, which has decided not to participate in the single currency, will not be bound by the rules concerning economic policy. These rules apply only to the Member States participating in the third stage. Denmark will retain its existing powers in the field of monetary policy.

P. Commercial Policy (Articles 110–116)

This section is unchanged except for a provision requiring Member States to obtain prior Commission authorization for emergency protective measures against products originating from third countries and put into free circulation in another Member State. In addition, this section now contains a new international agreement procedure. The procedure for concluding agreements between the Community and one or more States or international organizations is governed by Article 228, which is discussed below in section *MM*.

Q. Social Policy (Articles 118–122)

The Protocol on Social Policy authorizes the eleven Member States that wish to implement an expanded social policy (all Member States except the United Kingdom) to use the Community's institutions, procedures and mechanisms for that purpose. Thus, although this section of the EEC Treaty technically is not amended, the new, potentially far-reaching provisions on social policy apply throughout the Community except in the United Kingdom. Specifically, the United Kingdom is excluded from the legislative procedures relating to the new social policy amendments, any acts adopted under the amendments, and the financial consequences of those measures.

The most significant provisions of the Agreement Between the Member States of the European Community with the Exception of the United Kingdom (the Agreement) involve labor and employment. The Agreement's social policy objectives include the promotion of employment, dialogue between management and labor, "proper" social protection, and the integration of excluded persons into the labor market. This section authorizes the Community and its Member States (excluding the United Kingdom) to implement measures to advance these objectives.

Specifically, the Council may adopt directives imposing minimum requirements for gradual implementation by the Member States of measures relating to improvement of the working environment to protect worker health and safety; working conditions; the information and consultation of workers; equality of men and women with regard to labor market opportunities and treatment at work; and the integration of persons excluded from the labor market.

Social policy measures under the Agreement may not apply to pay, the right of association, or the rights to strike and impose lockouts. Also, the measures must take into account the diversity of national practices (particularly in the area of contractual relations) and the need to maintain the competitiveness of the Community economy, and must not inhibit the creation and development of small and medium sized undertakings. Legislation in the following areas must be adopted by unanimous action: (1) social security and social protection of workers; (2) protection of workers, where their employment contracts are terminated; (3) representation and collective defense of worker and employer interests; (4) conditions for the employment of third country nationals legally residing in the Community; and (5) financial contributions for the promotion of employment. In all other areas, legislation is adopted under the procedure of Article 189b. The Commission must consult management and labor before proposing social policy measures.

A Member State may entrust the implementation of social policy directives to management and labor at their joint request. The Member State must ensure that the directive is implemented as required and that it is in a position to impose the measure directly if necessary. In this area, management and labor may jointly initiate a dialogue at the Community level. This procedure can, if desired, result in contractual agreements. The agreements so concluded may be implemented by the Community. Another provision requires Member States to ensure that the principle of equal pay for work is applied regardless of sex. The equal pay principle is specifically defined, and is not to prevent affirmative action to promote the employment of women. In addition, Articles 120 and 121 regarding the equivalence of paid holidays and Council powers to assign the Commission implementation tasks are deleted.

R. European Social Fund (Articles 123–125)

The objectives of the European Social Fund are amended to include facilitating worker adaptation to industrial changes, in particular through vocational training and retraining. Articles 125 and 126 regarding vocational training, unemployment and resettlement assistance and Article 128 regarding vocational training principles are deleted (and are partially

incorporated into the new section on Education, Vocational Training and Youth, which is discussed section S below). This section also contains a procedural change requiring that legislation in this field be adopted under the former cooperation procedure now embodied in Article 189c.

S. Education, Vocational Training and Youth (Articles 126–127)

Chapter Three creates a new section on education and vocational training. The Council is authorized to adopt under the new procedure of Article 189b incentive measures to promote education, excluding any harmonization of Member State laws. Community action is to aim at, *inter alia*, teaching Member State languages, encouraging teacher and student mobility, academic credential recognition, and educational institution cooperation. The provisions regarding vocational training measures authorize the Council to adopt, under the procedure of Article 189c, measures to promote vocational training, excluding the harmonization of Member State laws. Community action in this area will aim at vocational training and retraining, instructor and trainee mobility, and cooperation between training establishments.

T. European Investment Bank (Article 198d–198e)

The most significant change in this area provides assistance from various funds. The European Investment Bank is to facilitate financing of investment programs with assistance from the structural funds and other Community financial instruments.

U. Economic and Social Cohesion (Article 130a–130e)

The Council is authorized to adopt measures to promote economic and social cohesion through unanimous action. The Council is further authorized to define through unanimous action, with the assent of the European Parliament, the objectives, organization, and priorities of the structural funds, as well as their governing rules. These provisions create a new Cohesion Fund to provide financial contributions to environmental and trans-European transport infrastructure projects.

The amendments also create a change in protocol. The Protocol on Economic and Social Cohesion includes several statements of intention to expand the scope of structural fund financing, explore means of reducing the contribution burden on less prosperous Member States, and monitor regularly the progress of social and economic cohesion. The Protocol commits the Community to providing certain financial contributions through the Cohesion Fund to the environmental and trans-European network projects of those Member States with a Gross National Product

per capita of less than ninety percent of the Community average and institutes a program for the fulfillment of the conditions of economic convergence, as outlined above in section O.

V. Research and Technological Development (Article 130f–130p)

Under the provisions of this article, the Community is to promote research and development by, *inter alia*, removing fiscal and legal obstacles to cooperation among undertakings. In addition, the Council will adopt under the procedures of Article 189b a multi-year program establishing scientific and technological objectives, priorities, proposed Community activities and maximum Community financial participation. This framework program is to be implemented by specific projects within each activity adopted by qualified majority. Activities may include establishing new research and development facilities, joint undertakings with Member States, third countries or international organizations, promotion of cooperation among undertakings, and the dissemination and exploitation of research and development results.

W. Environment (Article 130r–130t)

This section contains several potentially far-reaching provisions. The EC will seek a high level of environmental protection and will base its environmental policy on the principle of precaution. It must take into account, however, the diversity of circumstances within the Community. EC objectives in this area include the promotion at the international level of measures to address regional and worldwide environmental problems.

The EEC Treaty now provides that environmental protection requirements “must be integrated into the definition and implementation of other Community policies.” The provision formerly read that such requirements “shall be a component of the Community’s other policies.” Most legislation in this field must be adopted under the former cooperation procedure now embodied in Article 189c. Previously, unanimous Council approval was required for all environmental legislation. However, legislation may be adopted only by unanimous action in the following areas: (1) provisions primarily of a fiscal nature; (2) measures concerning town and country planning, land use with the exception of waste management and measures of a general nature, and management of water resources; and (3) measures significantly affecting a Member State’s choice between different energy sources and the general structure of its energy supply.

The Council may provide temporary derogations from an environmental measure and/or financial support from the Cohesion Fund if it deems

the cost of implementing the measure disproportionate for the public authorities of a Member State. Community harmonization measures must include, where appropriate, a safeguard clause allowing Member States to take provisional measures for non-economic environmental reasons, subject to a Community inspection procedure. Other provisions require Member States to finance and implement the environmental policy. Individual Member State environmental measures must be compatible with the EEC Treaty and the Commission must be notified. Changes in EC legislation will not affect the derogations accorded Spain and Portugal until December 31, 1999 regarding large combustion plants.

X. Trans-European Networks (Article 129d–129h)

Title XIII creates a new section on trans-European networks. The objectives of this section require the Community to contribute to the establishment and development of trans-European networks in the areas of transport, telecommunications, and energy infrastructures. The Community is to promote in particular, within the framework of a system of open and competitive markets, the interconnection and interoperability of national networks as well as access to those networks. The Community is authorized to implement measures necessary to ensure the interoperability of networks, particularly through technical standardization. It is further authorized to provide financial support to Member State projects of common interest, including transport infrastructure projects through the Cohesion Fund.

In the area of legislative procedures, the broad guidelines, objectives, and specific projects of common interest shall be defined through the new legislative procedure of Article 189b. All other measures, including those necessary to ensure the interoperability of national networks, shall be adopted under the legislative procedure of Article 189c. Each Member State, however, must approve the guidelines and projects of common interest relating to its own territory.

Y. Industry (Article 130)

Title XIV creates a new section on the promotion of industry. The objectives of this section mandate that the Community and the Member States ensure the conditions necessary for the competitiveness of the Community's industry. Specifically, in accordance with a system of open and competitive markets, they must aim to speed up the adjustment of industry to structural changes, encourage the growth of industry throughout the Community, particularly small and medium sized undertakings, encourage a favorable environment for co-operation between

undertakings, and foster the industrial exploitation of innovation and research and development.

The Community must contribute to the achievement of the above objectives through its policies and activities under other provisions of the EEC Treaty. The Council may adopt specific measures in support of action taken in the Member States to achieve the objectives, but only through unanimous action. The Commission may take "initiatives" to promote coordination of Member State industrial policies. The Title does not provide a basis for legislation that distorts competition.

Z. Public Health (Article 129)

Title XV creates a new section on public health. Its objectives require the Community to contribute to a high level of human health protection, in particular the prevention of diseases, by fostering Member State and international cooperation, and by supporting Member State actions. Areas of public health policy may include research, information dissemination, and education. Health protection is to form a "constituent part" of the Community's other policies. The Council is authorized to adopt, through the Article 189b procedure, incentive measures to promote public health objectives. These measures may not, however, include the harmonization of Member State laws.

AA. Culture (Article 128)

Title XVI creates a new section on the promotion of European culture. The objectives of this section include the development and dissemination of Member State and general European culture, while respecting national and regional diversity. It also requires the Community to take cultural aspects into account in its actions under other EEC Treaty provisions. The Council is authorized to adopt "incentive measures" to achieve cultural objectives through the Article 189b procedure with unanimity. These measures may not, however, include harmonization of Member State laws.

BB. Development Cooperation (Article 130u-130y)

Title XVII creates a new section on EC support for, and coordination of Member State aid to, developing countries.

CC. Consumer Protection (Article 129a)

Title XVIII creates a new section on the promotion of consumer protection. Under this section, the Community is authorized to promote consumer protection generally, through measures adopted pursuant to

Article 100a (approximation of laws relating to the internal market) and specifically, through measures in support of Member State policies to protect consumer interests and disseminate information. The Council must take such specific action under the Article 189b procedure. Member States may enact more stringent consumer protection measures, as long as they are compatible with the EEC Treaty and the Commission is notified.

*DD. Association of the Overseas Countries and
Territories (Articles 131–136a)*

This section is not amended.

EE. European Parliament (Articles 137–144)

This section increases the powers of the European Parliament, provides for citizen petitions, and sets the numbers of European Parliament members. The European Parliament (EP) will increase its participation in the legislative process under the new procedure of Article 189b. The nominees for President and members of the Commission are subject, as a body, to a vote of approval by the EP. The Council must obtain the assent of the EP before adopting certain measures related to the rights of Union citizenship (Part Two, Article B) and EP election procedures (Article 138), and before admitting new members to the Union (Article X). The Council must consult the EP before adopting certain legislation related to Union citizenship electoral rights (Part Two, Article C); state aid (Article 94); social policy under the Agreement (Article 118); social and economic cohesion (Article 130b); and industrial policy (Title XIV). The governments of the Member States must consult the EP on the nomination of the President of the Commission (Article 158). The Council must also obtain the assent of the EP, or consult with it, before concluding certain EC international agreements (Article 228).

The EP may request the Commission to submit proposals which it considers necessary to implement the Treaty. On the basis of alleged contravention or maladministration in the implementation of a Community law (except where these are being examined before a court), the EP may set up a temporary Committee of Enquiry to investigate and report on these matters. The EP shall appoint an Ombudsman to receive, investigate, and report on complaints from citizens of the Union (or any natural or legal person residing or having its registered office in a Member State) concerning maladministration by Community institutions (not including the European Court of Justice or Court of First Instance).

Any citizen of the Union (or any natural or legal person residing or having its registered office in a Member State) may petition the EP on any Community matter which affects that person directly.

A Declaration states that the Member States will, by no later than the end of 1992, attempt to reach an agreement fixing the number of members of the Commission and EP, the latter to be implemented in time for the 1994 elections. The Member States must take into consideration the "need to establish an overall size of the European Parliament in an enlarged Community."

FF. The Council (Articles 145–154)

There are several significant changes concerning the Council. First, Member State representatives on the Council are to be at the ministerial level, and must be authorized to make binding decisions for the government of that Member State. Second, the cooperation procedure of Article 149 is deleted (and incorporated into Article 189c). Third, this section establishes a General Secretariat to assist the Council under the direction of a Secretary-General.

GG. Commission (Articles 155–163)

The new provisions also impact the Commission. From January 1, 1995, the term of office in the Commission will be five years instead of four. This section also implements a new procedure for nominating and appointing the President and members of the Commission, which includes approval as a body by the EP. The number of Vice Presidents is reduced from six to one or two.

HH. Court of Justice (Articles 164–188)

The treaty creates a new court and penalties for noncompliance and expands the scope of judicial review. It recognizes the establishment of the Court of First Instance. A new procedure is created under which a fine can be imposed on a Member State for noncompliance with a judgment of the Court of Justice (the Court) requiring the State to fulfil an EEC Treaty obligation. If a Member State fails to comply with a Court judgment, the Commission may issue an opinion specifying the areas of noncompliance and a deadline for compliance. If the Member State fails to comply with the Court's judgment within the specified time limit, the Commission may bring an action against the Member State, specifying an appropriate fine. Upon a finding of noncompliance with its judgment, the Court can impose "a lump sum or a penalty payment" on the Member State.

The provisions on judicial review have been extended to make clear that acts of the Council and EP together, of the ECB, and certain acts of the EP alone are subject to judicial review under the same conditions applying to the other Community institutions. The EP and ECB may also bring actions in the Court under the same conditions as the other institutions. The Court is given jurisdiction over disputes concerning the fulfillment by national central banks of obligations under the EEC Treaty and the statute of the ESCB. The Court is further given jurisdiction to give preliminary rulings regarding the validity and interpretation of acts of the ECB. Lack of competence, infringement of an essential procedural requirement, infringement of the EEC Treaty or laws relating to its application, and misuse of powers may now be invoked before the Court to establish the inapplicability of regulations of the Council and EP, acting together, and of the ECB.

II. Legislative Procedures (Articles 189–192)

Article 189b creates a new legislative procedure with an expanded role for the EP. The procedure contains many of the basic features of the former cooperation procedure of Article 149(2). For example, the Council adopts a common position acting by qualified majority on a proposal from the Commission after obtaining the opinion of the EP, and definitively adopts that common position if the EP accepts or fails to reject it within three months. A new procedure is created, however, to govern those common positions the EP rejects or for which it proposes amendment.

Where the EP, by an absolute majority of its members, proposes amendments to a common position, it must forward an amended text to the Council and the Commission and the latter must deliver an opinion on it. If within three months the Council approves the amendments by qualified majority vote, the common position as amended is adopted. (Unanimity is required on those amendments which the Commission has rejected in its opinion). If the Council does not approve the proposed amendments within three months, the disputed provisions are referred to a Conciliation Committee.

The Conciliation Committee is convened where the EP rejects a common position and where the Council rejects amendments to a common position proposed by the EP. The Committee is to be composed of an equal number of representatives from the Council and the EP. If the EP, by an absolute majority of its members, confirms its rejection of the common position after the Council has explained its position, the proposal is deemed not adopted. If the EP proposes amendments the Committee has six weeks to agree, by a qualified majority of the Council representa-

tives and a simple majority of EP representatives, on a joint text. If it does so, the EP, acting by an absolute majority of the votes cast, and the Council, acting by a qualified majority, have six weeks to adopt the joint text. Approval of the joint text by both institutions results in adoption of the proposed act; otherwise, it is deemed not adopted.

If the Conciliation Committee fails to agree on a joint text, the proposed act is deemed not adopted unless the Council, acting by qualified majority within six weeks, confirms its initial common position (or the position with amendments proposed by the EP). If the EP does not reject the confirmed common position within six weeks by an absolute majority, the act is adopted. If it does reject the common position, the act is deemed not adopted. The three month and six week time periods specified in Article 189b may be extended, by common accord between the Council and the EP, by a maximum of one month and two weeks, respectively.

Measures subject to this new procedure include certain legislation related to the free movement of workers (Article 49); freedom of establishment (Article 54); approximation of laws (Article 100a); vocational training (Chapter 3, Article A); research and development (Article 130i); environment (Article 130s); trans-European networks (Title XIII); public health (Title XV); promotion of culture (Title XVI)); and consumer protection (Title XVIII).

The former cooperation procedure of Article 149(2) is retained and embodied in the new Article 189c. It is now applicable in a limited number of areas including transport, competition, and most environmental legislation.

JJ. Economic and Social Committee (Articles 193–198)

The treaty makes changes in the areas of Economic and Social Committee (ECOSOC) jurisdiction and procedure. The Council must now consult ECOSOC before adopting certain legislation related to harmonization of indirect taxation laws (Article 99); social policies under the Agreement (Article 118); education and vocational training (Title VIII, Articles A and B); social and economic cohesion (Article 130b); structural funds (Article 130d); the European Regional Development Fund (Article 130e); industrial policy (Title XIV); public health (Title XV); and consumer protection (Title XVIII). ECOSOC now adopts its rules of procedure without Council approval. Previously, unanimous Council approval was required.

KK. Committee of the Regions (Article 198a–198c)

This section creates a new Committee of the Regions, comprised of representatives from each of the Member States, to consult with the Council on specified issues of regional interest. The Council must consult with the Committee prior to adopting certain legislation related to social and economic cohesion (Article 130b); structural funds (Article 130d); the European Regional Development Fund (Article 130e); public health (Title XV); and promotion of culture (Title XVI).

LL. Financial Provisions (Articles 199–209a)

This section imposes requirements on budget sources and implements discipline and comment procedures. Article 201 provides that the Community's budget must be wholly financed with its own resources (not Member State contributions). Pursuant to Article 201a, the Commission may not make or alter a proposal or implement a measure without providing assurance that the measure can be financed within the limit of the Community's own resources. The Commission must take "all appropriate steps" to act on the comments of the EP and Council accompanying the discharge of the budget.

MM. General Provisions (Articles 210–240)

The general provisions create a new procedure for international agreements and delete two previously existing provisions. First, Article 228 sets out the procedure by which EC international agreements are to be concluded. It essentially consolidates under one provision the procedures specified with regard to the conclusion of different types of such agreements under the former EEC Treaty (former Articles 113, 114 and 228). There are, however, two significant changes. First, agreements between the Community and one or more states or international organizations cannot be concluded without EP assent in the following four areas: 1) agreements establishing an "association" involving reciprocal rights and obligations, common action and special procedures; 2) agreements establishing a "specific institutional framework by organizing cooperation procedures;" 3) agreements having "important" budgetary implications for the Community; and 4) agreements entailing amendment of an act adopted under the new legislative procedure of Article 189b.

Although the language of Article 228(3) is ambiguous, it appears that international commercial policy agreements negotiated under the authority of Article 113(3) are excluded from this requirement. Second, the Council must obtain prior approval to amend the EEC Treaty, under the procedure

set out in the "Final Provisions" (see paragraph 42 below), before it can conclude an agreement expected to require such amendment. The Community is explicitly authorized to enter into international agreements, under the procedure of Article 228, in the following areas: commercial policy (Article 113), research and development (Article 130m), the environment (Article 130r) and developing country aid (Title XVII). Articles 236 and 237, regarding EEC Treaty amendments and the admission of new members, are deleted (and incorporated into the "Final Provisions").

NN. Common Foreign and Security Policy (Article J-J.11)

New provisions create authority for consultation, cooperation and joint action in the fields of foreign policy and defense. Decisions are to be made by unanimous consent. The Member States agree to support the European Union's external and security policy "actively and unreservedly in a spirit of loyalty and mutual solidarity." Specifically, Member States must refrain from any action contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations.

Denmark will not participate in the elaboration or implementation of decisions and actions of the Union that have defense implications. It has, however, become an observer to the Western European Union.

OO. Cooperation in Justice and Home Affairs (Article K-K.9)

New provisions create authority for consultation, cooperation, and joint action in the fields of asylum and immigration policy, civil and criminal justice, and customs and police matters, including those related to combating drug trafficking, terrorism, and international fraud. Decisions are to be made by unanimous consent.

PP. Final Provisions (Articles L-S)

A new section establishes further general provisions. The new provisions for the amendment of the Treaties upon which the Union is founded are identical to those of the former Article 236, with one exception: the ECB shall be consulted regarding institutional modifications in the monetary field. A conference of the representatives of the Member States is scheduled for 1996, at which revisions to the Maastricht amendments will be examined. The EEC Treaty as amended at Maastricht will enter into force on the first day of the month following the deposit of the instrument of ratification by the last Member State.

Admission of new members to the Union may occur under the same procedures as those set out in former Article 237. At any time, Denmark may opt out of the Maastricht treaty's clause on the Economic and Monetary Union, cooperation on defense and police and union citizenship. It may choose to "opt into" these policies but not without new referendums.

QQ. Protocols and Declarations

Attached to the Treaty are numerous protocols, which have the same status as Treaty articles. With respect to pensions, benefits shall not be considered "pay" for the purposes of Article 119 regarding equal pay between genders to the extent they are attributable to employment periods prior to May 17, 1990. This protocol clarifies the scope of the European Court of Justice's *Barber* decision.²³ Another protocol covers the European System of Central Banks, the European Central Bank, and the European Monetary Institute, including objectives, organization, and authority. It also discusses convergence criteria and implements an excessive deficit procedure. A protocol on economic and social cohesion requires a Cohesion Fund to be set up by December 31, 1993. The Cohesion Fund will support environmental and trans-European network projects in the poorer EC Member States. Yet another protocol addresses Member State-specific provisions and exemptions. In addition, the Treaty includes over thirty Declarations, covering a wide variety of areas including the right of access to information held by EC institutions, protection of animals and nature conservation, hierarchy of Community Acts, common foreign and security policy, and emissions.

III. MAASTRICHT UPDATE (AS OF APRIL 1, 1994)

The foregoing article was written as of the date the Maastricht Treaty took effect. Some five months have passed since then, and it seems accordingly appropriate to offer a few comments by way of a postscript. It is difficult to determine the true impact of the Treaty in such a short period. However, it is clear that the Treaty will have an increasingly important impact on certain areas, such as social policy, while its impact on other areas such as monetary union will still depend on the requisite political will of the Member States, which has presently shifted away from further political integration towards further enlargement.

23. Case C-262/88, *Barber v. Guardian Royal Exch. Assurance Group*, 1990 E.C.R. I-1889, 2 C.M.L.R. 513.

A. Agreement on Social Policy

The first proposal to be dealt with under the Agreement on Social Policy concerned information and consultation in Community-scale undertakings. This is the proposal designed to improve the rights of employees of EC multinationals to transborder information and consultation, which originally provided for the establishment of European Works Councils. The original Proposal for a Council Directive, first proposed in 1990 under Article 100 (which requires unanimity), had been effectively blocked because the United Kingdom disagreed with it in principle. Almost as soon as the Treaty on European Union had been adopted, the Commission re-proposed the measure under the Agreement on Social Policy (in which the United Kingdom does not participate).

The first stage of consultation with the Social Partners under Article 3(a) on the possible direction of Community action was opened in November 1993 and terminated at the end of the year. The Commission decided, on the basis of the responses it had received, that a Directive was necessary and on February 8, 1994 commenced the second stage of consultation under Article 3(b) by publishing the envisaged content of a Directive. At the time of writing, it appears unlikely that the Social Partners will agree to discuss the matter within the Social Dialogue (under Article 4) and in these circumstances it seems the Commission will publish a formal Proposal for a Council Directive some time in April.

This first experience of the operation of the Social Policy Agreement has been something of a disappointment for the Commission so far; it had been hoped that the two sides of industry would be more willing to use the Social Dialogue procedure to reach agreement. It is perhaps unfortunate that the first matter to be dealt with under the Agreement is one that is highly controversial (proposals on transfrontier information and consultation have been under discussion since the Vredeling proposal of 1980).

Although we will have to await further proposals under the Social Policy Agreement to see how the Social Dialogue will work in practice, the information and consultation proposal has enabled the Commission to give some guidance on the mechanics of the procedure. In December 1993 it published a communication which indicated that it will generally allow six weeks for each period of consultation. In addition it intends, as a matter of practice, to consult the European Parliament on any proposed Council Decision implementing an agreement reached by the Social Partners in the Social Dialogue. These events are significant in light of the fact that the Parliament has no formal right to participate in the

legislative procedure under Articles 4 and 5 of the Agreement on Social Policy. Parliament had strongly objected to this.

Finally, the Commission has clarified which parties it intends to treat as "the Social Partners." This term is not defined in the Agreement, and indeed the English language version of the Agreement does not use the term but simply refers to "management and labor," which terms are not defined. The Commission intends to consult widely with cross-industry organizations or those that relate to specific sectors and are organized at the European level, provided they are an integral part of a Member State's social partner structure, have the capacity to negotiate agreements, represent all Member States, and have adequate structures to enable them to participate in consultation. Despite these well-meant principles, the organizations listed in the Communication as complying with the criteria are a very odd assortment and not a comprehensive cross-section of management and labor.

B. Monetary Union

Further progress towards monetary union has been slow. The severity of the recession in Continental Europe has had the inevitable effect of diverting attention away from long-term policies and toward the immediate problems of slow or negative growth and unemployment. In the case of Germany, the problems of the East continue to demand attention. Under the circumstances, national problems inevitably take priority over supranational issues.

Another factor that has tended to shift interest away from monetary union is the completion of negotiations for the enlargement of the European Union. The four new members with whom agreement has been reached — Sweden, Norway, Finland and Austria — are unlikely to be committed advocates of the creation of binding financial ties with the apparently profligate southern Member States. All of the new members, on the other hand, are close to the German economy and could easily be integrated into a "Deutschmark zone."

Finally, the Federal elections in Germany now scheduled for late 1994 raise the possibility of a change of government in that country. There may not be much difference between the attitudes of the major parties towards Europe, but a coalition of the left would tend to be less supportive of monetary union.

It appears the damage done to the prospects of the European Monetary System is simply too severe to be repaired quickly. The likelihood of a large number of Member States meeting the convergence criteria has deteriorated in the past few months. The conclusion must be that long delays will have to be endured, and perhaps a whole new

framework negotiated, before further progress towards monetary union can be regarded as a likely prospect.

MATERIALS FOR FURTHER READING

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